



DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2015-0094, Notice 2]

**Decision that Certain Nonconforming Model Year 1996 and 1997
Ferrari F50 Passenger Cars Are Eligible for Importation**

AGENCY: National Highway Traffic Safety Administration (NHTSA),
Department of Transportation (DOT).

ACTION: Grant of petition.

SUMMARY: This document announces a decision by the National Highway Traffic Safety Administration that certain model year (MY) 1996 and 1997 Ferrari F50 passenger cars (PC) manufactured prior to September 1, 1997 that were not originally manufactured to comply with all applicable Federal motor vehicle safety standards (FMVSS) are eligible for importation into the United States because those vehicles have safety features that comply with, or are capable of being altered to comply with, all applicable FMVSS.

DATES: This decision became effective on March 21, 2017.

ADDRESSES: For further information, contact George Stevens,
Office of Vehicle Safety Compliance, NHTSA (202-366-5308).

SUPPLEMENTARY INFORMATION:Background

Under 49 U.S.C 30141(a)(1)(B), a motor vehicle that was not originally manufactured to conform to all applicable FMVSS shall be refused admission into the United States unless NHTSA has decided its safety features comply with, or are capable of being altered to comply with, all applicable FMVSS based on destructive test data or such other evidence that NHTSA decides to be adequate.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the Federal Register of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the Federal Register.

J. K. Technologies, LLC (J.K.), Inc. of Baltimore, Maryland (Registered Importer R-90-006) petitioned NHTSA to decide whether nonconforming 1996 and 1997 Ferrari F50 PC's are eligible for importation into the United States. NHTSA published a notice of the petition on October 16, 2016 (81 FR 72852) to

afford an opportunity for public comment. No comments were received in response to this notice. The reader is referred to the notice for a thorough description of the petition.

NHTSA CONCLUSIONS:

In its petition, J.K. noted that the original manufacturer, Ferrari, S.p.A., certified the MY 1995 F50 PCs to all applicable FMVSS and offered those vehicles for sale in the United States. J.K. also contends that the non-U.S. certified MY 1996 and 1997 Ferrari F50 PCs share the same platform with the U.S.-certified MY 1995 Ferrari F50 PC, and on that basis compares the non-U.S. certified model to those vehicles to establish its conformity with many applicable FMVSS. Because there is no U.S.-certified counterpart for the MY 1997 Ferrari F50 PC, the petitioner acknowledged that it could not base its petition solely on the substantial similarity of those vehicles to the U.S.-certified MY 1995 Ferrari F50 PC. Instead, the petitioner chose to establish import eligibility on the basis that the vehicles have safety features that comply with, or are capable of being modified to comply with, the FMVSS based on destructive test data or such other evidence that NHTSA decides to be adequate as set forth in 49 U.S.C. 30141(a)(1)(B). Nevertheless, the petitioner contends that the non-U.S. certified MY 1997 Ferrari F50 PCs use the same components as the U.S.-certified MY 1995

Ferrari F50 PCs in virtually all of the systems subject to applicable FMVSS.

NHTSA has reviewed the petition and has concluded that the nonconforming versions of the MY 1996 and 1997 Ferrari F50 PCs are similar to the U.S.-certified versions of the MY 1995 Ferrari F50 PCs and are capable of being readily altered to comply with all applicable FMVSS with respect to all FMVSS applicable prior to September 1, 1997.

NHTSA has limited this decision to vehicles manufactured prior to September 1, 1997, because the U.S.-certified MY 1995 Ferrari F50 PCs that are the basis for this decision were not required to conform to the air bag system requirements of FMVSS No. 208 *Occupant Crash Protection* and the petitioner made no representation as to compliance with air bag system requirements of FMVSS No. 208 for the subject vehicles.

NHTSA has long taken the position that RIs are not subject to the requirements of standards that are being phased in, but must comply with those requirements once they apply to 100 percent of a manufacturer's production. The requirement for air bags to be installed at the driver's and front outboard passenger's seating position applies to 100 percent of passenger cars manufactured on or after September 1, 1997. As a consequence, an RI can meet the automatic protection requirements of the standard by installing conforming automatic

seat belts in passenger cars manufactured prior to that date. Therefore, J.K. or another RI could meet the standard by installing automatic seat belts in 1996 and 1997 Ferrari F50 passenger cars manufactured prior to September 1, 1997. Vehicles manufactured on or after that date would require the installation of U.S.-model air bag systems to meet the standard. The agency further notes that conformity packages submitted for vehicles imported under this decision must demonstrate that the vehicle is equipped with components that allow it to achieve compliance with the standard. Any modification or replacement of components necessary to meet the requirements of the standard must be shown to bring the vehicle into compliance. Such proof must be submitted by an RI as part of any conformity package submitted for nonconforming 1996 and 1997 Ferrari F50 passenger cars.

DECISION:

Accordingly, on the basis of the foregoing, NHTSA hereby decides that MY 1996 and 1997 Ferrari F50 passenger cars manufactured prior to September 1, 1997 that were not originally manufactured to comply with all applicable FMVSS, are capable of being altered to conform to all applicable FMVSS.

VEHICLE ELIGIBILITY NUMBER FOR SUBJECT VEHICLES:

The importer of a vehicle admissible under any final decision must indicate on the form HS-7 accompanying entry the appropriate vehicle eligibility number indicating that the vehicle is eligible for entry. VCP-62 is assigned to MY 1996 and 1997 Ferrari F50 passenger cars manufactured prior to September 1, 1997 are admissible under this notice of final decision.

Authority: (49 U.S.C. 30118, 30120: delegations of authority at 49 CFR 1.95 and 501.8)

Jeffrey M. Giuseppe,

Director,

Office of Vehicle Safety Compliance.

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